

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
United Technological Systems, Inc.,)	
)	
Complainant,)	
)	
v.)	File No. E-99-32
)	
MCI WORLDCOM Communications, Inc.,)	
)	
Defendant.)	
)	

ORDER

Adopted: January 11, 2000

Released: January 12, 2000

By the Deputy Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. In this Order, we grant the joint motion for a stay filed in the above-captioned action by complainant United Technological Systems, Inc. (Uni-Tel) and defendant MCI WORLDCOM Communications, Inc. (MCI) on January 5, 2000 (Joint Motion), and order Uni-Tel and MCI to keep the Commission informed of certain developments.

2. On November 5, 1999, Uni-Tel filed a formal complaint in the above-captioned action, alleging that MCI violated numerous provisions of the Communications Act of 1934, as amended.

3. Uni-Tel states in its complaint that MCI has brought suit against it in an action styled *WorldCom Technologies, Inc. vs. United Technological Systems, Inc.*, Cause No. DV-98-05268-B (44th Dist., Dallas County, Tex.) (Texas Action) Uni-Tel states further that, in the Texas Action, “Uni-Tel raised as counterclaims essentially the same factual claims it is raising here.” Complaint ¶102. Similarly, in its revised answer filed before the Commission on December 7, 1999, MCI avers at paragraph 111 that the Texas Action “involv[es] some of the same facts that are at issue in this proceeding.”

4. On December 6, 1999, pursuant to the Commission's letter order dated November 30, 1999, Uni-Tel and MCI filed with the Commission a selection of the pleadings in the Texas Action. A review of those pleadings reveals that the Texas Action involves a number of the same issues raised in the instant action, and that both Uni-Tel and MCI have moved for summary judgment in the Texas Action.

5. At the initial status conference held in the instant action on December 10, 1999, the parties informed Commission staff that discovery is complete in the Texas Action and that the Texas Action has been set for the February trial calendar.

6. In the Joint Motion, Uni-Tel and MCI seek a stay of the above-captioned action "until the state court proceedings involving the same issues [*i.e.*, the Texas Action] is concluded."

7. Based on our review of the pleadings in the Texas Action and the parties' representations regarding the status of the Texas Action, we believe that a stay of the instant action will serve the public interest. It appears that a ruling in the Texas Action may significantly narrow the issues pending here. Discovery in the Texas Action is complete. The case is on the trial calendar, and both parties have moved for summary judgment. Thus, a stay of the instant action pending final judgment by the Texas trial court will conserve the resources of the Commission and the parties and avoid the possibility of inconsistent findings. Finally, both Uni-Tel and MCI seek such a stay.

8. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the Joint Motion is GRANTED.

9. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the above-captioned action is STAYED pending final judgment in the Texas Action by the Texas trial court.

10. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that Uni-Tel and MCI will keep the Commission informed in writing of any relevant developments in the Texas Action, and copy the Commission on any documents filed in the Texas Action that make more than passing reference to the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau